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15 September 1996

MEMORANDUM FOR THE VICE PRESIDENT

FROM: John Deutch

SUBJECT: Modifications to Encryption Proposal

Based on the discussion at the Principals meeting of September 13, 1996, you asked for two changes to my September 11th proposal to further mitigate the negative impact on law enforcement.

First, you asked that we tighten the control regime for encryption products that do not support key recovery. The Commerce Department would now take the following, tougher approach to licensing:

- Issue an initial general export license valid for six months, based on one-time NSA review and submission of a data recovery development plan that explains in detail the steps the applicant will take to develop, produce, distribute, and/or market encryption products with key recovery features. The specific commitments would depend on the applicant's line of business. Producers would commit to produce key recovery products. Others would commit to incorporate such products into their own products or services. Plans would be evaluated based on such criteria as what resources the firm will devote to R&D for key recovery, the aggressiveness of the firm's product development and marketing plans, how much of the product line will be devoted to such products, etc.
- Extend the license for up to three additional six month periods, subject each time to receipt of a report showing satisfactory progress in implementing the data recovery development plan.
- No license would extend beyond two years after the effective date of the Commerce Department's regulation unless the President determines otherwise.

Second, you asked that we restructure the proposed Data Recovery Infrastructure Commission to include law enforcement representation in addition to industry and other private sector interests already envisioned. We amend the proposal accordingly.

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